

# Enforcing Smoke-Free Housing Policies and Overcoming Barriers to Implementation: On-the-Ground Strategies

**Moderator:** Peter Ashley, U.S. Department of Housing and Urban Development

**Presenters:**

- **Gail Livingston:** Deputy Administrator of Housing Programs, Boston Housing Authority
- **Patricia Baines-Lake:** Executive Director, Lansing Housing Commission
- **Larry Williams:** CEO, Freeport Housing Authority

June 4, 2015

2:00-3:15pm EST



***Call-In Information:***  
**Phone-Number: 1 (415) 655-0051**  
**Access Code: 716-770-160**




# **An Overview of HUD's Smoke-Free Multifamily Housing Initiative**


**Peter J. Ashley, DrPH**

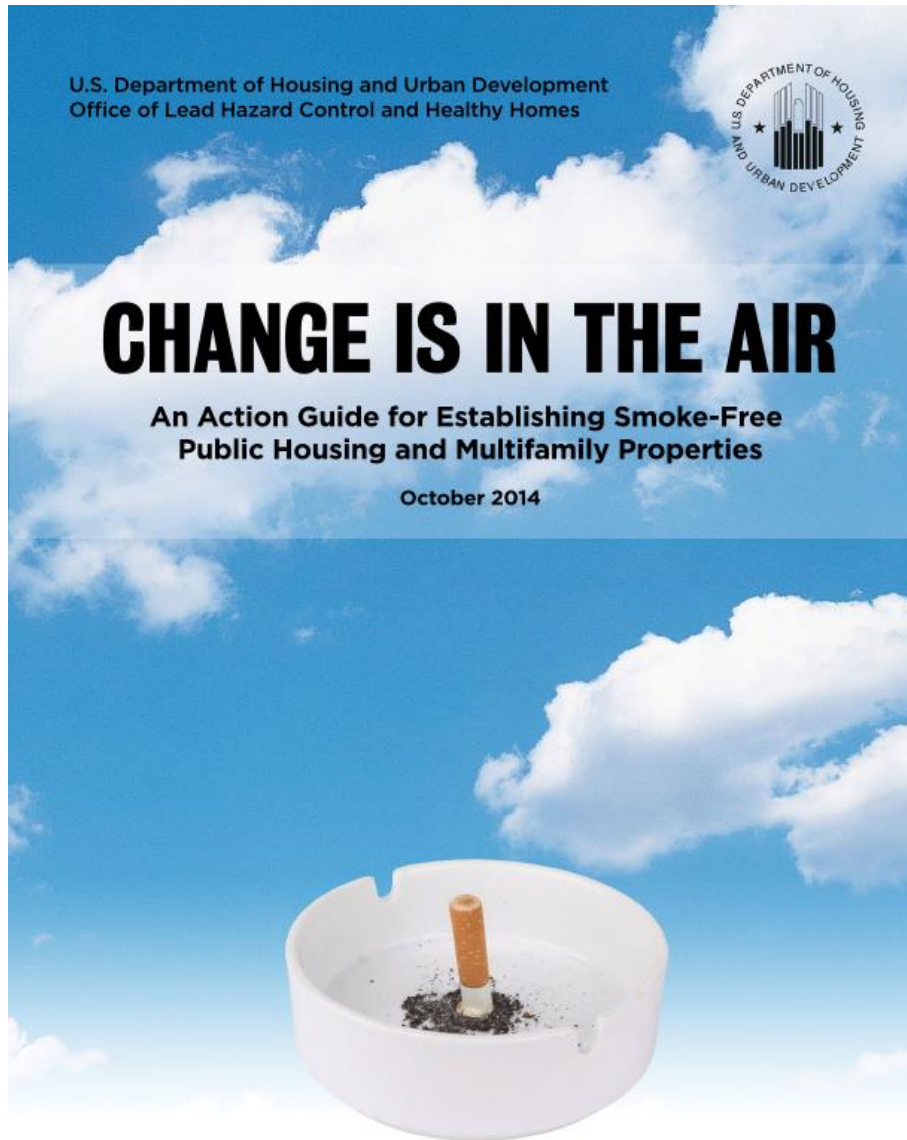
**Office of Lead Hazard Control and Healthy Homes  
U.S. Department of Housing and Urban Development**

# HUD Smoke-Free Initiative

- **2009:** Office of Public and Indian Housing issued Notice PIH 2009-21
- **2010:** Office of Housing issued Notice 2010-21
- **2012:** Office of Public and Indian Housing issued Notice 2012-25 and HUD released “Smoke-free Housing” toolkits
- **2012** Federal Register Notice published soliciting feedback on HUD initiative (e.g. barriers, effective implementation practices)
- **2014:** Office of Lead Hazard Control and Healthy Homes releases “Action Guide”

	<b>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b> WASHINGTON, DC 20410-8000
ASSISTANT SECRETARY FOR HOUSING- FEDERAL HOUSING COMMISSIONER	
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
<b>Special Attention of:</b>	NOTICE: H 2010-21
Multifamily Hub Directors	Issued: September 15, 2010
Multifamily Program Center Directors	Expires: September 30, 2011
Rural Housing Services (RHS) Directors	Cross References:
Supervisory Housing Project Managers	
Housing Project Managers	
Contract Administrators	
Multifamily Owners and Management Agents	
<b>Subject: Optional Smoke-Free Housing Policy Implementation</b>	

	<b>U.S. Department of Housing and Urban Development</b> <b>Office of Public and Indian Housing</b> <b>Office of Healthy Homes and Lead Hazard Control</b>
<b>SPECIAL ATTENTION OF:</b>	NOTICE: PIH-2012-25
Regional Directors; State and Area	Issued: May 29, 2012
Coordinators; Public Housing Hub	Expires: Effective until amended, revoked or superseded
Directors; Program Center Coordinators;	Cross Reference:
Troubled Agency Recovery Center Directors;	24 CFR 903.7 (e)(1)
Special Applications Center Director;	24 CFR 966.3
Administrators; Resident Management	
Corporations Public Housing Agencies;	
Healthy Homes Representatives	
<b>Subject: Smoke-Free Policies in Public Housing</b>	



- Incorporates information from HUD's October 2012 FR Notice to soliciting feedback on the Department's SF housing initiative
- 116 comments received (summarized in Appendix)
- Includes recommendations from 9 housing managers with experience implementing SF policies

# Progress to Date

- From review of publically available information: In 2015: ~ 570 Public Housing Agencies with SF policies (~ 16% of 3,090 PHAs that administer conventional public housing)
- This covers > 186,000 housing units
- 9 tribally designated housing entities identified with SF policies
- No estimate on adoption by federally subsidized multifamily owners/agents (i.e., project-based Section 8) but we believe that implementation within this group has been significant.
  - 4 cases highlighted in the Action Guide

# HUD Plans for Smoke-Free Housing Support Activities in FY 2015

- This webinar is the second of 2 webinars and focuses on enforcement of SF housing policies.
- Expand content on HUD's SF housing website (Office of Lead Hazard Control and Healthy Homes).
- Develop an “executive briefing”, a resident handout, and a brief online video for housing managers, boards of directors, residents etc.

Access HUD Smoke-Free Housing materials here:

[www.hud.gov/offices/lead](http://www.hud.gov/offices/lead)

# Enforcement Tips

- Follow up on all complaints and don't ignore violations.
- Meet with residents who resist complying to help them problem-solve.
- Celebrate small successes in newsletters or other communications. Celebrate residents & staff who changed their smoking behavior or quit.
- On-going: Promote smoking cessation classes or other ways to support people who want to quit.
- On-going: Communicate about the policy even after it goes into effect.

"The mindset of the enforcement isn't: 'I'm going to catch you smoking, I'm going to evict you.' It is: 'I'm going to work with you to give you as many resources and as many chances as we possibly can, without waiving our right for eviction.' We hold the resident's hand as long as we possibly can."

*- Rodger Moore, Home Forward, Portland, Oregon*

# Smoke Free Policies

Shauna Sorrells

Director of HUD's Office of Public Housing Programs



# Topics for Discussion:

1. Upcoming Rulemaking
2. Programmatic Priorities
3. Contours of the Rule
4. Stakeholder Input

# Rulemaking

- Secretary Castro has Announced Intent to Mandate Smoke Free Requirements within Public Housing
  - Rule at OMB
  - Anticipate Publication Late Summer
  - Public Notice Period Open for 60 days

# Program Priorities: Benefits of Going Smoke-free

- PHA
  - Reduced Maintenance Costs
  - Improved Unit Turnover Times
  - Decreased Fire Risks (Healthy & Safety) and Insurance Costs
- Tenants
  - Reduced Exposure to Second Hand Smoke
  - Improved Health Outcomes
  - Improved Tenant Relations

# Stakeholder Input

- Successful Enforcement Strategies
- Implementation Costs
- E-Cigarettes
- Accommodating Smokers

# Poll 1: Which of the following is YOU today?

1. Housing official deciding whether to implement your first smoke-free policy.
2. Housing official in real need of tips to improve your SF policy enforcement.
3. Not in housing, but want to learn how to support housing officials and residents.
4. Not sure yet, sounded interesting and it was free!

## Poll 2: What do you want MOST to hear?

1. Details! How does enforcement happen?
2. Stories! When enforcement worked well and when it failed.
3. Resources! Who or where to turn for guidance on this?
4. HUD policy guidelines
5. Live questions & answers



## Implementing Non-Smoking Housing at the Boston Housing Authority



# BHA Background



- Family and Elderly/Disabled Units

- 12,000 units in many building types
- 26,000 residents





# Resident Profile

- Average household income \$12,000
- 38% Hispanic, 26% Black, 19% White, 16% Asian
- 47% English as primary language
- 3X as many rate health as poor vs non-public housing residents
- Asthma rates 2X those in non-subsidized housing
- 19% of households reported a smoker vs 14% citywide



# Process and Timeline

- Resident Survey May-June 2010
- City-wide Resident Meeting co-sponsored with resident organizations and partners -July 2010
- Policy Statement Finalized and submitted with Annual Plan -January 2011
- Staff Trainings- Summer and Fall, 2011
- Site level resident meetings at all developments- Summer 2011
- Resident Support Activities
- New Lease Addendum signed at annual review: Fall, 2011
- Policy Effective: Fall, 2012

# Smoke Free Enforcement

- 5-step Initial Enforcement Policy:
  - 1st Complaint: Manager visits unit and provides copy of policy
  - 2nd Complaint: Manager delivers written copy of complaint
  - 3rd Complaint: Manager sends written copy of complaint with added requirement for private conference for subsequent complaints
  - 4th Complaint: Private conference with resident and written agreement to comply
  - 5th Complaint: Manager consults legal regarding fines or further enforcement action

This go-slow process was meant to emphasize that BHA housing is smoke-free, not smoker-free and provide residents with ample opportunity to comply.

# Evolving Approach to Enforcement

- Treat smoking violations as any other lease violation.
- The first credible complaint will result in a private conference.
- Management will require the resident to sign an agreement not to violate the policy again or face fines or eviction.
- Include consent to inspections as part of the agreement.

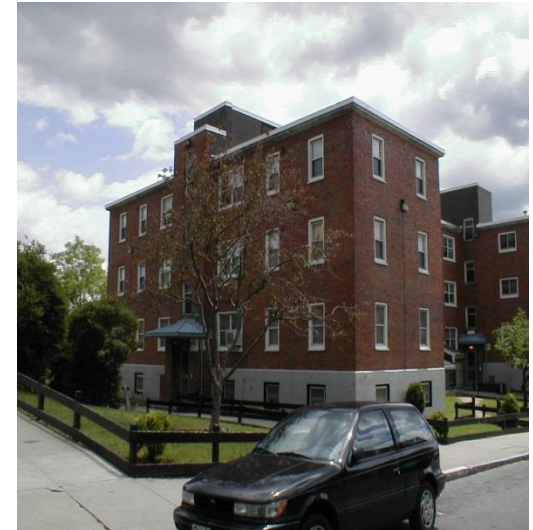
# Enforcement Results

- Year 1: 79 violation notices sent and 4 private conferences scheduled. Year 2 numbers similar.
- No evictions based solely on smoking in units.
- Smoking cited as one of several lease violations in some cases. Housing court judge has emphasized importance of complying with policy to residents in those cases.
- Received a dozen reasonable accommodation requests shortly after the policy was implemented; none were approved.
- Included space to note “evidence of smoking” on our annual Living Unit Inspection form
- Smoking in common hallways is a difficult problem.

# Resident Meetings: What is the Message?

- Most residents understand the health impacts of second hand smoke but question why they can't smoke in their units.
- Smoke travels between units through air ducts, cracks in the walls and floors, elevator shafts, and electrical lines; and, ventilation systems cannot eliminate this.
- If you can smell your neighbors' dinner cooking you will breathe in their second-hand smoke as well so,

**Eliminating indoor smoking in multiunit housing is the only way to completely protect people from exposure**



# Resident Support and Cessation Services

The Boston Public Health Commission provides:

- A Tobacco Cessation Specialist for Boston public housing residents.
- Free non-smoking groups, on-site.
- Nicotine patches to help them quit smoking.

The BHA met with residents at all sites to discuss:

- Approved outdoor smoking locations
- Reasons for and enforcement of policy.



# Response of Legal Community

- Advocacy Community has not questioned or opposed the policy.
- No legal actions in response to denial of reasonable accommodation requests.
- Met with Housing Court staff before implementation.
- No eviction cases for the sole reason of smoking violation; but if it is one ground for lease termination agreeing not to smoke included in the resolution.
- No increase in court actions.



# The Future

- Continuation of growing acceptance of smoke-free housing in the community as a whole.
- Greater opportunities for smoke-free housing for voucher holders.
- Better enforcement strategies for common hallways.
- Expansion of services for cessation.
- Normal turnover will increase the percentage of residents who moved into smoke-free housing.

# Contact Information

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# Lansing Housing Commission

Patricia Baines-Lake

Executive Director

# Overview of Lansing Housing Commission

- The Lansing Housing Commission manages 833 multifamily rental units. There are 5 townhouse multifamily properties, one midrise (6 stories) and 235 scattered site - single family and duplex units.
- The portfolio consists of 262 one bedroom units, 200 two bedroom units, 242 three bedroom units, 97 four bedroom units and 32 five bedroom units.

# Smoke-free policy

The Lansing Housing Commission approved its Smoke Free Housing Policy on July 28, 2010 with a July 1, 2011 effective date.

Highlights of the policy are:

- No person may use, smoke, hold or carry lighted tobacco in any form, including cigarettes, pipes, or cigars, while in a LHC owned property. Effective on July 1, 2011, all current residents, all employees, all guests and all new residents were prohibited from smoking anywhere inside of any LHC owned or operated property, including but not limited to rental units, vehicles, lobbies, restrooms, hallways, reception areas and any common areas.
- The Policy applies to 100% of LHC's portfolio
- The Policy was 1<sup>st</sup> introduced during our Annual Plan Process. Comments were received from the public which included concern about ability to stop the addictive behavior and evictions.

# Smoke-free policy

- The policy became effective 1 year after Board approval.
- LHC partnered with the State of Michigan Health Department to offer smoking cessation classes.
- In addition to classes, interested parties were connected to free options for receiving smoking cessation medical support including patches.

An additional Highlight extends to the exterior of buildings and states:

“Smoking outside of LHC owned buildings shall be permitted only in designated smoking areas, which shall be at least 15 feet from a door, walkway, window or ventilation system. In addition, smoking areas shall be located sufficient distances from the buildings and walkways so that secondhand tobacco smoke does not enter the buildings and to ensure residents and guests can avoid walking through secondhand tobacco smoke to enter or leave LHC owned properties.”

**The Policy Will be Expanded to specifically address:**

E – Cigarettes

Marijuana- (currently addressed in our drug prohibition policy)

# Overview of Lansing's Enforcement Approach

- The primary reasons LHC instituted a smoke free policy were to:
  - Improve the internal unit environment
  - Reduce the adverse effects smoking has on people with Asthma (particularly children) (as Highlighted by the Healthy Homes Grant),
  - Reduce the cost of turning units, and
  - Address the disproportionate adverse effects smoking has on low income households.

# Enforcement Approach

LHC's Policy states:

- Employees and residents who smell tobacco smoke from the inside of LHC owned buildings are to report this to the office as soon as possible. LHC's Management staff will identify the source of the smoke and take appropriate action when deemed necessary.

Each resident signs a copy of LHC's Smoke Free Policy which states:

## **TENANT CERTIFICATION**

- ✓ I have read and understand the above smoking policy and I agree to comply fully with the provisions. I understand that failure to comply may constitute reason for termination of my lease.

We approach enforcement by:

- Providing options to Eliminate the unacceptable behavior
- Educating the residents of LHC properties
- Site Managers issuing verbal then written warnings



# Enforcement Approach

**LHC seeks to avoid evictions whenever possible by using a combination of:**

- Meeting with the court to educate the judges on the policy,
- Meeting with Legal Aide to explain the policy objective,
- Arriving at court ordered solutions, i.e., in conjunction with Legal Aide, we reached an agreement with a resident who scrubbed their walls, agreed to stop smoking in their unit and a community group repainted the unit as the settlement, and
- As a last resort, LHC evicts policy offenders. 3 households have been evicted because of smoking violations.

# Evidence Required for Eviction

- The Evidence needed to evict is consistent across all property types: Scattered Site Single Family, Duplex, Senior High-rise and Multifamily units.
- The courts require evidence/witnesses which show the lease violations are/have occurred.
- Affidavits may be filed or individuals may testify in person
- LHC staff investigates complaints/information provided and collects evidence of non compliance. As such, residents are not expected, but may testify against other residents.

# Effectiveness of the Policy

The policy has been effective because of resident and staff support of the policy

Residents quickly realized the importance of Healthy Smoke Free Homes based on education provided by State Department of Health and a Healthy Homes Grant.

Children became the champions of the Policy because they want to live healthy.

- LHC has assessed the effectiveness of the policy for all properties by:
  - the reduction in rehab costs,
  - observing ashtrays are largely a decorating phenomena of the past, and
  - declining complaints regarding tobacco smoke.

# What Would LHC Do Differently?

- LHC would have more dialogue regarding the policy prior to implementation.
- LHC would adopt the Smoke Free Policy sooner.

# Unexpected Benefits

- Residents are very supportive of the Smoke Free Policy
- The cost of unit turns has reduced more than expected. LHC has reduced the cost of painting and unit prep (reduction = \$1500-\$2,000 per unit) since the non smoking policy went into effect.)
- LHC has a long term Partnership with the State Department of Health which results in green approaches to extermination and maintenance.
- Children with Asthma residing in LHC properties have free access to Public Health resources.
- High Rise residents expect to smoke in a designated areas, not in their building!



Housing Authority  
of the City of Freeport

## Mr. Larry Williams, CEO

446 Public Housing Units

2 Highrises with 179 units (0-2 Bedroom)

8 Family Developments with 267 units (0-5 Bedroom)

Over 800 residents

# Smoke-Free Policy Quick Facts

- One Year Period between Notification and Effective Date
  - Board Approval to pursue Non-Smoking – April 2011
  - Added Policy to our PHA Plan to HUD of intention to implement a Non-Smoking Policy
  - Resident Meetings – June 2011
  - Surveys disbursed to residents – early July 2011
  - Surveys collected through August 2011
  - Survey Analysis and Presentation to Board and Residents
- Policy affected all HACF residents and properties, staff, guests, and contractors - Policy Effective June 1, 2012
- Cessation Classes were offered; Tobacco Quitline always available
- No requests made for Reasonable Accommodation to smoke

# Reasons

- Improved air quality and health for all (residents, staff, contractors, etc)
- Increased safety – preventing fires caused by smoking
- Decreased Apartment Turnaround cost which will benefit the residents and Housing Authority



# HACF Enforcement

- Evidence
  - Witnesses
  - Photos
  - Written Reports
- Lease Enforcement
  - First Violation – Written Warning and Reminder of Policy
  - Second Violation – Written and Mailed Warning
  - Third Violation – Lease Violation and Termination
- Eviction
  - Four evictions thus far; most moved out prior to filing the eviction

# Unexpected Implementation Concerns and Outcomes

- Implementation Concerns
  - Hold community and stakeholder meetings to have a full understanding of proposed policy.
  - Future Lease Enforcement-Consideration to ban e-cigarettes also.
- Positive Outcomes
  - Even individuals who smoked were supportive of HACF becoming smoke free.
  - Cleaner air quality for all - staff, residents, contractors, and visitors.
  - Reduced unit turnaround costs, saving \$1,000 per unit compared to a smoking unit.

# Contact Information

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# Conclusion of the Webinar



- Submit your questions for the speakers to the right side tool bar at any time
- Additional questions can be sent to:  
[Smokefreehousing@hud.gov](mailto:Smokefreehousing@hud.gov)